

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Clifford L. Johnson,

Case No. _____

Plaintiff,

v.

NOTICE OF REMOVAL TO
FEDERAL COURT

City of Minneapolis; and Officer
Kevin Franek and Officer Brian
Cummings, in their individual and
official capacities,

Defendants.

Pursuant to 28 U.S.C. §§ 1331, 1343, 1441 and 1446, Defendant City of Minneapolis, through its attorneys, Heather P. Robertson, Assistant Minneapolis City Attorney, and Brian Carter, Assistant Minneapolis City Attorney, 350 S. Fifth Street, Room 210, Minneapolis, MN 55415, hereby removes this action from the Fourth Judicial District of the State of Minnesota to this Court, and gives notice to the Plaintiff and this Court as follows:

1. On December 26, 2018, Defendant City of Minneapolis received the attached Summons and Complaint and enclosures by personal service. No further proceedings have occurred in this matter.

2. A copy of the Summons directed to Defendant, dated December 26, 2018 is attached hereto as **Exhibit A**. A Copy of the Complaint dated December 26, 2018 is attached hereto as **Exhibit B**.

4. This Notice of Removal is filed pursuant to 28 U.S.C. § 1441(a) and (c). The Complaint alleges violations of Plaintiff's rights secured by the Fourth Amendment of the U.S. Constitution. These are claims over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1343, as they arise under the laws of the United States within the meaning of 28 U.S.C. § 1331, and these claims are therefore removable under 28 U.S.C. § 1441.

5. The Complaint alleges that the City of Minneapolis and its employees violated Plaintiff's constitutional civil rights and asserts claims under 42 U.S.C. § 1983. The Complaint also alleges that the City of Minneapolis and its employees violated Plaintiff's rights and asserts claims under 42 U.S.C. § 12132. These are claims over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1343, as they arise under the laws of the United States within the meaning of 28 U.S.C. § 1331, and these claims are therefore removable under 28 U.S.C. § 1441.

6. The Complaint also asserts pendent common law claims under Minnesota law. This Court has supplemental jurisdiction over Plaintiff's state claims under 28 U.S.C. § 1367(a).

7. Defendants Kevin Franek and Brian Cummings have not been served with process in this lawsuit. Defendant City of Minneapolis first received notice of this Complaint on December 26, 2018 when it was served upon the

Minneapolis City Clerk. This Notice of Removal is filed within 30 days of Defendant City of Minneapolis's receipt of the Complaint and is therefore timely under 28 U.S.C. § 1446(b)(1).

8. The City of Minneapolis files herewith a copy of all process, pleadings and orders served upon it in this action. The City has sent written notice of the filing of this Notice of Removal of Action to Federal Court to Plaintiff's counsel and will promptly file a copy of this Notice with the Clerk of the District Court for the Fourth Judicial District of the State of Minnesota, County of Hennepin. Defendants sign this pleading in accordance with Federal Rule of Civil Procedure 11.

WHEREFORE, notice is hereby given that this action is removed from the State Court to this Court for trial or such other determination as this Court may make regarding the action and in accordance with its jurisdictional limits under 28 U.S.C. § 1441.

Dated: January 15, 2019

SUSAN L. SEGAL
City Attorney
By
/s/ Heather P. Robertson
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